

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Germain Difo	Team: Team # 8	CCRB Case #: 200607543	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/08/2006 1:10 PM	Location of Incident: 221st Street and Murdock Avenue	Precinct: 105	18 Mo. SOL 12/8/2007	EO SOL 12/8/2007	
Date/Time CV Reported Thu, 06/08/2006 7:40 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 06/08/2006 7:40 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Mark Holochuck	02868	906472	105 PCT
2. POM Omar Castillo	29301	929854	105 PCT
3. POM Joseph Durante	23084	923791	105 PCT
4. POM Michael Edmonds	04823	930090	105 PCT
5. SGT John Gavan	04286	897538	105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brett Allen	18907	929832	105 PCT
2. POF Marique Monzert	31680	930765	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Mark Holochuck	Abuse: Sgt. Mark Holochuck questioned § 87(2)(b)	
B.SGT Mark Holochuck	Abuse: Sgt. Mark Holochuck stopped § 87(2)(b)	
C.POM Joseph Durante	Force: PO Joseph Durante used physical force against § 87(2)(b)	
D.POM Omar Castillo	Force: PO Omar Castillo used physical force against § 87(2)(b)	
E.POM Michael Edmonds	Force: PO Michael Edmonds used physical force against § 87(2)(b)	
F.POM Joseph Durante	Abuse: PO Joseph Durante damaged § 87(2)(b)'s property.	
G.POM Omar Castillo	Force: PO Omar Castillo tightly handcuffed § 87(2)(b)	
H.SGT Mark Holochuck	Abuse: Sgt. Mark Holochuck threatened § 87(2)(b) with the use of force.	
I.SGT Mark Holochuck	Abuse: Sgt. Mark Holochuck refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.SGT Mark Holochuck	Abuse: Sgt. Mark Holochuck supervised the strip-search of § 87(2)(b)	
K.POM Omar Castillo	Abuse: PO Omar Castillo did not obtain medical treatment for § 87(2)(b)	
L.SGT John Gavan	Abuse: Sgt. John Gavan did not obtain medical treatment for § 87(2)(b)	

Synopsis

§ 87(2)(g)

§ 87(2)(b) § 87(2)(b)'s mother who did not witness his arrest, made this complaint to Internal Affairs by phone on June 8, 2006 at 5:25 PM. The CCRB received that complaint on June 12, 2006. § 87(2)(b) made a duplicate complaint to the CCRB on June 8, 2006 at 7:40 PM via the CCRB call processing system. On June 8, 2006 at approximately 1:10 PM, § 87(2)(b) was walking on a sidewalk near the intersection of 221st Street and Murdock Avenue in Queens. As § 87(2)(b) crossed Murdock Avenue to avoid a puddle, a plainclothes officer, identified through investigation as Sgt. Mark Holochuck of the 105th Precinct, called § 87(2)(b) over to his vehicle.

When § 87(2)(b) approached the vehicle, Sgt. Holochuck, who was seated in the front passenger seat, began to question him regarding his name, place of residence, and destination. (Allegation A) When § 87(2)(b) indicated that he was headed in the direction from which he had come, Sgt. Holochuck and three other officers, identified through investigation as POs Joseph Durante, Michael Edmonds, and Omar Castillo of the 105th Precinct, exited the vehicle. Sgt. Holochuck then allegedly grabbed § 87(2)(b)'s left arm, (Allegation B) prompting § 87(2)(b) to step backward and ask what was going on.

PO Durante allegedly grabbed § 87(2)(b) by the neck and threw him to the ground. (Allegation C) PO Castillo then allegedly kicked § 87(2)(b) once in the chest, (Allegation D) after which one or more officers allegedly punched and kicked § 87(2)(b) repeatedly about the head, neck, and back (Allegation C, D, and E) before eventually handcuffing him. After § 87(2)(b) was handcuffed and brought to his feet, PO Durante searched him. During that search, PO Durante allegedly pulled § 87(2)(b)'s underwear to the side, tearing them. When § 87(2)(b) noted to PO Durante that his underwear had been torn, the officer allegedly tore them further. (Allegation F) At some point after he was handcuffed, § 87(2)(b) noted aloud that his handcuffs were tight and causing him pain. In response, PO Castillo allegedly adjusted the handcuffs to cause § 87(2)(b) more discomfort. (Allegation G) After a marked unit was called to the scene, Sgt. Holochuck entered the back seat of the marked vehicle and accompanied § 87(2)(b) to the 105th Precinct stationhouse. While in the back seat with § 87(2)(b) the sergeant allegedly threatened him with force and refused to provide his name when § 87(2)(b) requested it. (Allegations H and I)

After transporting § 87(2)(b) to the 105th Precinct stationhouse, Sgt. Holochuck authorized a strip-search, which POs Castillo and Edmonds conducted. (Allegation J) Following that strip-search, while PO Castillo was fingerprinting him, § 87(2)(b) asked PO Castillo for medical attention. PO Castillo allegedly refused to obtain medical attention for § 87(2)(b) (Allegation K) When § 87(2)(b)'s mother came to the 105th Precinct stationhouse at approximately 4:50 PM, she spoke to Sgt. John Gavan, who allowed her to see her son. When she requested that Sgt. Gavan provide § 87(2)(b) with medical attention, Sgt. Gavan allegedly refused her request, forcing her to personally call EMS to the stationhouse. (Allegation L) § 87(2)(b) who was arrested for § 87(2)(b), sustained fractures to his left wrist and right elbow and bruises to his chest, as well as bruises and abrasions to both arms.

§ 87(2)(g)

This case was re-assigned from Inv. Reeve Wood to ASI Germain Difo following Inv. Wood's resignation from the agency.

On § 87(2)(b) and § 87(2)(b), respectively, § 87(2)(b) filed a notice of claim and a federal law suit against the City of New York on § 87(2)(b)'s behalf. (Encls. 38A-38B and 38AA-38LL)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on January 12, 2007. (Encl. 9A-9D) He was also interviewed by Sgt. Johnny Celestin, Lt. Peter Efthimiou, and Sgt. Robert Castro of Internal Affairs, on June 8, 2006 and by ADAs Leahy and Francis of the Queens County District Attorney's Office on July 10, 2006. (Encls. 8A-8L) While being treated at § 87(2)(b) on § 87(2)(b), § 87(2)(b) stated that he had been assaulted. (Encl. 32A-32Y) § 87(2)(b) a 5'6" tall, 180-pound, § 87(2)(b) year-old black male, § 87(2)(b). § 87(2)(g)

On June 8, 2006, § 87(2)(b) was going to visit his then-girlfriend, who lives near the intersection of 219th Street and 113th Avenue in Queens. § 87(2)(b) was wearing a light-blue t-shirt, blue jeans, tan Timberland boots, and black fitted baseball cap with a black do-rag underneath. As he did not have a belt, he was using a red cloth rag tied through his belt loops to hold up his pants. The knot that § 87(2)(b) had tied in the rag was very small and did not create any more of a bulge than a normal belt would have. In his pocket, § 87(2)(b) was carrying his cell phone, his house keys, and a few dollars in change. There was nothing in § 87(2)(b)'s pocket that would have created the appearance of a bulge. § 87(2)(b) used to live in the area he was visiting at the time of incident, the area surrounding 225th Street and 114th Avenue, so he decided to walk around the block and see if anybody that he knew was outside. § 87(2)(b) said that he believed that he was walking southbound on Murdock Avenue.

As § 87(2)(b) walked on the sidewalk on the right-hand side of Murdock Avenue, he decided to cross the street to the left-hand side to avoid a puddle. § 87(2)(b) noted that there were no cars in the street at the time he began to cross, and that there was "zero traffic" in the area. When § 87(2)(b) began to cross the street, an individual seated in the front passenger seat of a sedan that was parked on the right side of the street hailed him before he could get across. As he hailed § 87(2)(b) that individual, a 6'3" tall white male with a slim build whom § 87(2)(b) later identified as Sgt. Holochuck, pointed in the direction from which § 87(2)(b) had come. Upon hearing Sgt. Holochuck calling to him, § 87(2)(b) turned to look at him and noted that that letters "NYPD" were emblazoned on the front of the jacket.

Sgt. Holochuck told § 87(2)(b) to "come over" to the vehicle, (Allegation A) at which point § 87(2)(b) walked to the vehicle's passenger side. As he did so, § 87(2)(b) noted that there were four officers inside the vehicle including Sgt. Holochuck. A short white male with reddish hair who was wearing a bulletproof vest, identified through investigation as PO Edmonds, was seated in the rear passenger seat behind Sgt. Holochuck. A heavyset Hispanic officer, whom § 87(2)(b) identified as PO Castillo, was wearing black t-shirt and pants, had dark hair, and had a mole or mark on one of his cheeks. PO Castillo was seated on the driver's side of the vehicle. Also seated on the driver's side was a bald, heavyset white male who appeared to be in his 30's. This officer, who was wearing cargo shorts and a white t-shirt, was identified through investigation as PO Durante. Though § 87(2)(b) believed that PO Castillo might have been in the driver's seat, he could not be certain as to whether PO Castillo or PO Durante was in that position.

As § 87(2)(b) approached the vehicle, Sgt. Holochuck asked § 87(2)(b) what his name was. When § 87(2)(b) told him, Sgt. Holochuck asked him how old he was. § 87(2)(b) replied that he was § 87(2)(b) years old. Sgt. Holochuck then asked § 87(2)(b) where he lived and § 87(2)(b) said that he lived at § 87(2)(b). Sgt. Holochuck asked § 87(2)(b) where he was going. § 87(2)(b) responded that he was going to his girlfriend's house on 219th Street and 113th Avenue. Sgt. Holochuck asked § 87(2)(b) why, if he was visiting that location, he was walking away from it. § 87(2)(b) replied that he

was just “going for a walk.” At that point all of the officers got out of the vehicle, and Sgt. Holochuck grabbed § 87(2)(b) by his left arm. (Allegation B) § 87(2)(b) took a step backward and said, “What’s going on?” PO Durante advanced towards § 87(2)(b) from the front with his arm outstretched and “clotheslined” § 87(2)(b) moving his arm across the front of § 87(2)(b)’s neck and throwing him directly to the ground. (Allegation C) § 87(2)(b) landed on his back. When he tried to sit up, PO Castillo, who was standing in front of § 87(2)(b) kicked him in the chest with the bottom of his boot so that he fell back to the pavement. (Allegation D) § 87(2)(b) rolled over so that he was face down and put his arms in a push-up position under his chest. His arms were grabbed and held behind him and he felt blows begin to rain all over his back, head and body. He was unable to look up and see exactly which officers were kicking and punching him, but he speculated that all of the officers were involved because of the quantity of blows. (Allegations C, D, and E) At one point he was punched in the face and his glasses flew off. When he was asked if he had been hit in the arms during the assault, § 87(2)(b) said that he did not remember it specifically, but that he must have been because his arms were eventually broken. As the officers struck him, § 87(2)(b) screamed “Help me!” in an attempt to attract people to the scene. The officers told him, “Shut up,” in response. § 87(2)(b) said that he had not seen any civilians on the street prior to the stop, but said that by the end of the beating there were many people on either side of the street, although he could not estimate how many people were present. None of the people interceded on § 87(2)(b)’s behalf.

At no point during the incident did § 87(2)(b) try to resist the officers or defend himself from them. When the officers finally stopped, there did not appear to be any reason for their doing so. They simply stopped hitting him, handcuffed him, and pulled him to his feet. When questioned during his IAB statement as to whether he ever had his hands under his body, § 87(2)(b) stated that he did not. He further clarified, stating that when he was trying to push himself up, the officers grabbed his arms and had control of them for all of the time following. He also noted in that statement that though the officers had a hold of his arms behind his back for the entire time that he was on the ground, they did not try to handcuff him until after hitting him for between five and six minutes. In his CCRB statement, § 87(2)(b) estimated that the officers’ assault lasted “a minute or two.” The investigator timed a minute and asked § 87(2)(b) if he thought that the beating had lasted for a full minute, which he affirmed. Once he was on his feet, § 87(2)(b) was positioned against the front of the unmarked sedan. PO Durante then searched his pockets while PO Castillo held his hands.

After searching § 87(2)(b) PO Durante untied the rag that § 87(2)(b) was using as a belt, pulled § 87(2)(b)’s underwear to the side so forcefully that they ripped, and looked down his underwear. When § 87(2)(b) protested that the officer had ripped his underwear, the officer pulled his underwear more, ripping them further. (Allegation F) § 87(2)(b) did not mention this allegation in his IAB statement.

In his statement to ADAs Leahy and Francis, § 87(2)(b) did not note which officer searched him or tore his underwear. PO Durante reached under § 87(2)(b)’s crotch from behind and felt around his genitals from outside of his pants. After PO Durante had searched § 87(2)(b) Sgt. Holochuck reached into § 87(2)(b)’s pockets again. During the search Sgt. Holochuck said repeatedly, “He’s got to have something, he’s got to have something.” § 87(2)(b) noted that because the rag holding up his pants had been removed, his pants were falling down.

Earlier, one of the officers had made a call over the radio requesting a marked car respond to the scene. As they were waiting for the requested unit to arrive, § 87(2)(b) stated aloud that his handcuffs were too tight. PO Castillo then reached his hands around the handcuffs and maneuvered them so that they were digging into a cut that was on his left wrist. (Allegation G) § 87(2)(b) did not make this allegation in his statement to Internal Affairs or to the Queens District Attorney’s Office.

A marked patrol car arrived on the scene shortly after the search had been completed. § 87(2)(b) was put into the rear of the vehicle, and was escorted by Sgt. Holochuck. Because § 87(2)(b)’s right elbow had suffered an abrasion during the incident, he tried to lean his right side forward so that his elbow would not be touching the seat of the car. When he did this, Sgt. Holochuck said, “What are you doing?” § 87(2)(b) said, “My arm is cut, I can’t sit like that.” Sgt. Holochuck said, “I know there’s a cut there, keep moving I’m gonna taser you.” (Allegation H) § 87(2)(b) said, “Alright, you got it.” At some point

while he was being transported to the stationhouse, § 87(2)(b) asked Sgt. Holochuck for his name. Sgt. Holochuck replied, "My name is NYPD." (Allegation I) § 87(2)(b) did not mention these allegations in his statements to Internal Affairs or the Queens District Attorney's Office.

Once he arrived at the stationhouse, § 87(2)(b) was taken before the front desk. § 87(2)(b) said that he was not asked any questions while he was at the desk and did not complain of any injuries because he "wasn't thinking of it." He was then taken by PO Castillo and another officer, identified through investigation as PO Edmonds, into a room in the rear with a set of smaller cells. § 87(2)(b) said that this was not the main holding cell area, and that no one else was present. The officers took off his handcuffs and told him to take off all of his clothes and to set them on a nearby bench. (Allegation J) As § 87(2)(b) put down each garment, PO Castillo picked the clothing up and looked through it. Once he was completely naked, the officers told § 87(2)(b) to turn around so that his back was to them and instructed to bend over. After he had done this, the officers told § 87(2)(b) to put his clothes back on. As § 87(2)(b) was putting his boots back on, Sgt. Holochuck entered the cell and had him repeat the entire process. § 87(2)(b) said that Sgt. Holochuck searched through his clothing and boots even more intently. None of the officers touched § 87(2)(b) during the strip-search. § 87(2)(b) did not allege a strip-search in his initial statement to Internal Affairs, as that statement only detailed what occurred at the arrest location.

After the strip-search § 87(2)(b) was put into a holding cell with three male inmates. One of the males was black or Puerto-Rican and the other two were black. § 87(2)(b) was kept in this cell for several hours until PO Castillo took him out and fingerprinted him. While PO Castillo was fingerprinting him, § 87(2)(b) said, "I need to go to a doctor." He stated to the CCRB that he wanted a doctor because his arms hurt. He stated that his left wrist was swollen and his right elbow hurt. His chest and face also hurt and his cheek was swollen. PO Castillo replied that seeing a doctor "would only make the process longer." § 87(2)(b) said, "I don't care, I need to go to a hospital." PO Castillo did not make any further reply. (Allegation K) § 87(2)(b) did not mention requesting medical attention in his statement to Internal Affairs, which detailed only the events occurring at the arrest location. In his statements to the Queens District Attorney's Office, § 87(2)(b) noted that he requested medical attention of one of the four officers who effected his arrest but did not specify which.

After being fingerprinted § 87(2)(b) was put into a different cell that only contained one inmate, a black man in his 40s who had been arrested for some sort of violation involving his driver's license. § 87(2)(b) said that the man observed that his shirt was dirty and that his arm was swollen and asked him what had happened. § 87(2)(b) told the man about the incident. After several more hours, § 87(2)(b)'s mother, § 87(2)(b) came to the holding area and saw her son. She asked him what happened and he showed her his swollen wrist and said, "They beat me up." § 87(2)(b) turned around and left the holding cell area. About half-an-hour later EMS arrived at the stationhouse and § 87(2)(b) was taken to § 87(2)(b). He was accompanied by PO Castillo. § 87(2)(b) said that, as he was being transported to the hospital, a female EMS technician was asking him what had happened so that she could fill out a report. § 87(2)(b) said that he told her, but that she wrote something different in the report. § 87(2)(b) said that he knew this because she would repeat back to him everything that he said to her. When he said that he had been "beaten up" by the officers, the technician said something to the effect of, "Rumbling with the officers." § 87(2)(b) said that at § 87(2)(b) a female doctor asked him what had happened. X-rays were taken of his injuries, but the doctors were unable to see any fractures. § 87(2)(b) said that he later found out that this was because of the blood and swelling around the injuries. The doctors at § 87(2)(b) diagnosed his injuries as a "hematoma." § 87(2)(b) was then taken to Queens Central Booking, where a Fire Department doctor diagnosed him as having a fracture. The doctor rigged a splint out of newspaper and tape and had § 87(2)(b) taken back to § 87(2)(b) where he was treated for fractures to his wrist and elbow.

During § 87(2)(b)'s interview with the ADAs Leahy and Francis on July 10, 2006, Sgt. Caplan presented § 87(2)(b) with four photo arrays, which included photographs of Sgt. Holochuck and POs Castillo, Durante, and Edmonds. § 87(2)(b) identified PO Castillo as the officer that kicked him in the chest during his arrest and identified Sgt. Holochuck as the officer that initially called him over to the police

vehicle and grabbed his left arm. He did not identify PO Durante or PO Edmonds from the photo arrays. (Encl. 8A-8L)

Results of Investigation

§ 87(2)(b)
§ 87(2)(b) § 87(2)(b)'s mother, was interviewed at the CCRB on January 12, 2007. (Encl. 10A-10C) § 87(2)(b) a § 87(2)(b) old black female, § 87(2)(b)
§ 87(2)(b)

Between three and four o'clock in the afternoon on June 8, 2006, § 87(2)(b) was contacted by Gershon Coleman, the father of her son, § 87(2)(b). § 87(2)(b) told § 87(2)(b) that he was at the 105th Precinct and that § 87(2)(b) had been arrested. § 87(2)(b) got to the 105th Precinct stationhouse at approximately 4:50 PM, where § 87(2)(b) met her. § 87(2)(b) told § 87(2)(b) that he had spoken to a PO Castillo, who told him that he had not wanted to arrest § 87(2)(b) but that Sgt. Holochuck had not been "upset" with § 87(2)(b)'s answers and had arrested him. § 87(2)(b) proceeded to speak to the desk sergeant at the time, who she identified as Sgt. Gavan, and identified herself as a § 87(2)(b). Sgt. Gavan said, "Oh, we didn't know his mother was on the job," and took § 87(2)(b) back into the holding cell area. § 87(2)(b) saw § 87(2)(b) and the other inmates in the cell told him to tell her what had happened. § 87(2)(b) said that § 87(2)(b) had footprints "all over his shirt," was holding his arm, and had blood on his shirt. § 87(2)(b) also said that § 87(2)(b)'s face and left arm were swollen and his arms were bruised and his neck was scratched. He had "deep cuts" in his arm from the handcuffs. § 87(2)(b) said, "Mom, my chest hurts, something's wrong with my arm, I can't breathe and they won't send me to the hospital." § 87(2)(b) turned to Sgt. Gavan and asked him, "Why was my son beaten up like that? Why haven't you given him medical attention?" Sgt. Gavan said, "I'll tell you what I'm going to do, I'm going to do you a solid. I'm gonna get him out in two minutes to CB. You're on the job, you know what to do, you can expedite it after that." (Allegation L) § 87(2)(b) said, "No, call EMS, I want my son to have medical attention now." Sgt. Gavan said, "But I'm going to do you this favor, I'm going to get him out for you right now, two minutes." § 87(2)(b) said that she repeated her requests for medical attention, but to no avail. Finally she said, "You're denying my son medical attention? Are you denying him medical attention?" § 87(2)(b) then raised her finger and walked to the front of the stationhouse, retrieved her cell phone, and called for EMS herself. After telling the operator what had happened, the operator told § 87(2)(b) that she was going to transfer her to IAB and gave her a SPRINT number. § 87(2)(b) wrote down the SPRINT number, but did not have it with her at the time of the interview. She said that she was on the phone with the operator and IAB at the same time. She spoke to someone at IAB who she thought was named "Williams."

EMS responded to the stationhouse and § 87(2)(b) observed PO Castillo walk § 87(2)(b) out of the stationhouse. § 87(2)(b) described PO Castillo as being a fat, light-skinned male with a mole on his face. She said that PO Castillo was "jerking" § 87(2)(b) as he walked him. When asked what she meant by "jerking," § 87(2)(b) said that he was shoving § 87(2)(b) in front of him while holding his arm.

§ 87(2)(b) followed the ambulance to § 87(2)(b). While § 87(2)(b) was being triaged at the hospital, § 87(2)(b) asked PO Castillo what had happened. § 87(2)(b) stated that PO Castillo replied, "It was the sergeant, it was all the sergeant, he didn't like the way your son was answering the questions, he wasn't happy with his answers, it was him." § 87(2)(b) said that PO Castillo appeared to be teary-eyed during the exchange. Once § 87(2)(b) had been through triage, he was taken through a set of double doors to see a doctor. After going through the double doors, § 87(2)(b) had a conversation with Sgt. Holochuck, during which she tried unsuccessfully to obtain information regarding her son's arrest.

§ 87(2)(b)
§ 87(2)(b) was interviewed at Rikers Island on May 3, 2007. (Encl. 11A-11C) Sgt. Caplan of Internal Affairs interviewed § 87(2)(b) at the same facility on March 8, 2007. (Encl. 11A-11C) § 87(2)(b) an § 87(2)(b) -old black male, § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) stated that he and another man, whose real name he did not know, were arrested around the date of June 8, 2006 for smoking marijuana. § 87(2)(b) did not know what time he was arrested, but said that it was still light out. He said that he and the man he was arrested with were put into a holding pen and that they were later joined by two other people. § 87(2)(b) did not remember the other men who were in the cell, and did not remember either of them complaining about being injured or having been beaten up. He said that he did not remember anyone asking for medical attention or seeing a female civilian come into the holding cell area. § 87(2)(b) stated that he was “under the influence” of marijuana at the time and did not have a very clear recollection. He said that he spent most of his time talking to the person he had been arrested with. He did not remember anyone fitting § 87(2)(b)'s description being in the holding cell with him.

§ 87(2)(b)
§ 87(2)(b) a § 87(2)(b)-old black male, provided a phone statement to the CCRB on April 17, 2007. (Encl. 12A-12B) Sgt. Caplan of Internal Affairs also spoke to § 87(2)(b) over the phone on March 12, 2007. (Encl. 12A-12B) § 87(2)(b) was contacted because he was lodged in the same holding cell as § 87(2)(b) after being arrested for § 87(2)(b). When contacted by Internal Affairs, § 87(2)(b) stated that he had no information regarding § 87(2)(b) and noted that when one is arrested he is only concerned with himself. What follows is § 87(2)(b)'s statement to the CCRB, in which he was able to recall the incident.

§ 87(2)(b) who noted that he was arrested at approximately 1:00 PM, initially did not remember anyone in the cell complaining of any injuries, and stated that he kept to himself. After being provided with a physical description of § 87(2)(b) however, § 87(2)(b) stated that he vaguely remembered a young man of that description holding his arm and that the young man's arm was bleeding. § 87(2)(b) believed that he remembered the young man to have stated that he had been injured when he was thrown down by police officers. He noted that the young man asked officers for band-aids or a towel to wipe the blood, but was not accommodated. § 87(2)(b) did not remember any prisoner's mother coming into the cell area.

Efforts to Interview Additional Witnesses

On March 20, 2007, Inv. Wood contacted § 87(2)(b) who was arrested on the incident date at a time and place unrelated to § 87(2)(b)'s arrest, to determine whether he witnessed interactions taking place in the 105th Precinct holding cell following § 87(2)(b)'s arrest. § 87(2)(b) noted that he was held in the holding cell on the incident date, but he did not recall seeing or interacting with anyone fitting § 87(2)(b)'s description and did not hear anyone complaining of injuries or requesting medical attention. He also did not recall anyone saying that they had been “beaten up” or strip-searched.

On September 26, 2006, Inv. Wood traveled to the incident location to canvass for witnesses. During that canvass the investigator spoke to § 87(2)(b) who lives on the property closest to § 87(2)(b)'s arrest location. § 87(2)(b) who refused to provide his phone number, noted that he did not witness any of the actual arrest, but arrived home just as § 87(2)(b) was being put into a car. He also noted that he did not see any injuries on § 87(2)(b). The investigator also spoke to § 87(2)(b) a middle-aged black male who resides at § 87(2)(b). § 87(2)(b) indicated that he had not witnessed the incident, but his § 87(2)(b)-year-old daughter who was not home at that time, § 87(2)(b) had. When the investigator managed to contact § 87(2)(b)'s mother on November 28, 2006, § 87(2)(b) adamantly refused to allow her daughter to provide a statement. The investigator canvassed several other residences near the incident location, but no additional witnesses were identified or interviewed.

Sgt. Mark Holochuck and POs Michael Edmonds, Omar Castillo, and Joseph Durante

Sgt. Mark Holochuck and POs Michael Edmonds, Omar Castillo, and Joseph Durante, all of the 105th Precinct, were interviewed at the CCRB on May 25, May 15, May 22, and May 23 of 2007, respectively. (Encls. 19A-19C, 22A-22C, 16A-16C, and 25A-25C) They were also interviewed by Sgt. Clive Caplan and Lt. Thomas Panetta of Internal Affairs on January 11, January 1, January 9, and January 11 of 2007, respectively. (Encls. 18A-18E, 21A-21E, 15A-15E, and 24A-24D) Sgt. Holochuck is a white male who is 5'11" tall, has brown hair, and weighs 190 pounds. PO Edmonds, also a white male, is § 87(2)(b) old, 5'10" tall, and has brown hair. PO Castillo, a 5'8" tall, § 87(2)(b)-old Hispanic male, has black hair and weighs 250 pounds. PO Durante, a § 87(2)(b)-old, 5'10" tall white male, is bald and weighs 230 pounds.

On June 8, 2006, the officers were together working 9:30 AM by 6:05 PM tours. They were all in plainclothes, assigned to an unmarked sedan, and performing anti-crime patrol within the confines of the 105th Precinct. PO Castillo was § 87(2)(b)'s arresting officer. § 87(2)(g)

At the conclusion of their interviews, all of the officers provided their memobook entries regarding this incident. § 87(2)(g)

Sgt. Holochuck

Memobook Entries

Sgt. Holochuck's memobook entries state that PO Castillo made one arrest at 1:13 PM on the incident date and that a strip-search conducted at the 105th Precinct at 1:30 PM yielded negative results at 1:35 PM. The entries also state that PO Castillo assisted the arrestee, later identified as § 87(2)(b) with EMS at 5:05 PM, at which point § 87(2)(b) was transported to § 87(2)(b) (Encl. 17A-17D)

CCRB Interview Statement

At approximately 1:00 PM on June 8, 2006, Sgt. Holochuck, PO Durante, PO Castillo, and PO Edmonds were patrolling near 221st Street and Murdock Avenue in Queens. Sgt. Holochuck stated that the area is residential, and at the time there was a problem with burglaries in the vicinity. As the officers were driving along either Murdock Avenue or 113th Avenue, Sgt. Holochuck saw an individual, later identified as § 87(2)(b) at the opposite end of 221st Street, north of where the officers were located. § 87(2)(b) was walking southbound on the sidewalk on 221st Street and was looking into cars parked along the street as well as the houses located nearby. The officer who was driving, identified through investigation as PO Edmonds, pulled the vehicle onto the west side of 221st Street on the south end of the block and stopped the vehicle so that the officers could observe § 87(2)(b) who was walking on that side on the north end. At some point § 87(2)(b) looked up and seemed to observe the officers. Upon seeing them, he began to cross the street from the west side to the east side. § 87(2)(b)'s move to cross the street led Sgt. Holochuck to believe that § 87(2)(b) had observed the officers. At the point that § 87(2)(b) recognized the officers, he was approximately seven car-lengths from their car. § 87(2)(b) continued to look at the officers as he tried to cross the street. There were several vehicles travelling along the street, and § 87(2)(b) appeared to become flustered. He stopped in the middle of the street and stood there, forcing the approximately three vehicles that were on the street to stop and drive around him, engaging their horns in the process. When asked in his IAB interview whether the vehicles were actually able to get around § 87(2)(b) Sgt. Holochuck stated that because § 87(2)(b) was standing directly in the middle of the street, one car was forced to stop.

After observing this for approximately one minute, Sgt. Holochuck decided to "have a conversation" with § 87(2)(b). Sgt. Holochuck motioned to him to come over, displayed his shield and said, "Police." § 87(2)(b) walked over to Sgt. Holochuck's side of the car, at which point Sgt. Holochuck observed a bulge of indefinite shape in § 87(2)(b)'s left front pants pocket. Sgt. Holochuck asked § 87(2)(b) who he was, if he had identification, and what he was doing in the area. The sergeant did not mention a request for identification during his IAB interview. When asked why he called § 87(2)(b) over, Sgt. Holochuck said that the fact that there had been a high incidence of burglaries in the area as well as auto larcenies, § 87(2)(b)'s behavior while they observed him, and the fact that he changed directions when he saw them had contributed to his decision to stop him. He noted during his IAB interview that he did not mention his observations to his partners because he wished to "feel out" the situation first. § 87(2)(b) did not have any identification and Sgt. Holochuck could not remember whether § 87(2)(b) who appeared nervous, told him his name. When asked where he was coming from, § 87(2)(b) responded that he was coming from a friend's house. When Sgt. Holochuck asked him where his friend's house was, § 87(2)(b) indicated that it was in the direction in which he had been walking. As he was talking to Sgt. Holochuck, § 87(2)(b) repeatedly touched the top of his left pocket, which contained a bulge of indefinite shape. Throughout their interaction Sgt. Holochuck told § 87(2)(b) multiple times not to touch his pocket, but § 87(2)(b) continued to touch it. Sgt. Holochuck said that § 87(2)(b)'s insistence on putting his hand on his pocket made him suspicious that the pocket may have contained a weapon, specifically a small gun.

Because § 87(2)(b) kept touching his pocket, Sgt. Holochuck decided to frisk § 87(2)(b) for his own safety. Without issuing instructions to any of his partners or to § 87(2)(b) the sergeant stepped out of the vehicle and reached directly for § 87(2)(b)'s pocket. § 87(2)(b) stepped back and appeared to try and hit Sgt. Holochuck with a closed fist by raising his arm and starting to swing it. PO Durante put § 87(2)(b) in a "bear-hug" and forced him to the ground. Once he was on the ground, § 87(2)(b) struggled with the officers by flailing his arms and then trying to put his arms underneath his body and dig down toward his waistband. Sgt. Holochuck said that this concerned him because he did not know if § 87(2)(b) was trying to reach for whatever was in his pockets or hide something in his pants. POs Castillo and Edmonds assisted PO Durante, who was on top of § 87(2)(b) in getting control of § 87(2)(b)'s arms. In his statement to IAB, Sgt. Holochuck noted that though he attempted to assist personally, there was "a lot going on." After the officers spent some time working to hold § 87(2)(b) on the ground and pull his arms out from under his body, they were able to get one handcuff on § 87(2)(b). § 87(2)(b) continued, however, to pull his arms away from the officers refusing to allow them to handcuff his other arm. None of the officers punched, kicked, or "clotheslined" § 87(2)(b) at any point during the incident. Sgt. Holochuck did not remember § 87(2)(b) yelling during the struggle.

After struggling with him for approximately two minutes, the officers were able to handcuff § 87(2)(b). After he was handcuffed, § 87(2)(b) was pulled to his feet. One of the officers, Sgt. Holochuck did not specify which, then searched § 87(2)(b) recovering a cellphone. Sgt. Holochuck was not able to describe the cellphone. Sgt. Holochuck noted that though § 87(2)(b) calmed down and was cooperative after being handcuffed, he began "fidgeting" with his hands behind him. Neither he nor any other officers pulled § 87(2)(b)'s underwear to the side and looked inside of them. As § 87(2)(b) was standing handcuffed, Sgt. Holochuck decided that he would travel with § 87(2)(b) to the precinct to ensure that he did not retrieve anything from his underwear. Sgt. Holochuck specified that he did not see § 87(2)(b) reach into his underwear, but just saw him moving his hands behind him. A marked car was called to the scene and Sgt. Holochuck and § 87(2)(b) were transported to the precinct. Sgt. Holochuck could not remember if § 87(2)(b) asked him for his name during the trip to the precinct. § 87(2)(b) continued to fidget in the RMP and Sgt. Holochuck told him not to move and to "take it easy." § 87(2)(b) was fidgeting by moving his arms and moving side to side. Sgt. Holochuck denied threatening to taser § 87(2)(b) if he did not stop moving. He did not hear § 87(2)(b) complain of any injuries during the trip to the stationhouse or at any other time.

Once at the precinct, Sgt. Holochuck decided to strip-search § 87(2)(b) because of the way that he had been fidgeting and because the officers had not recovered a weapon in the preliminary search. Sgt. Holochuck, PO Castillo and PO Edmonds all conducted the strip search, which yielded negative results. Sgt. Holochuck said that he believed that § 87(2)(b) could still have a secreted weapon in his underwear or down his pants because of his behavior at the scene and during the trip to the stationhouse. Sgt. Holochuck also cited the fact that § 87(2)(b) had had one of his arms underneath his body during the struggle and could have been hiding something.

§ 87(2)(b) did not complain of any injuries at any point during this incident. When presented with § 87(2)(b)'s arrest paperwork and questioned as to why he did not charge him with attempted assault, Sgt. Holochuck stated that though he believed that § 87(2)(b) had attempted to strike him, he thought § 87(2)(b)'s motivation was to escape rather than injure him. He therefore believed that § 87(2)(b) were more appropriate charges.

PO Durante

Memobook Entries

PO Durante's memobook entries state that one male, later identified as § 87(2)(b) was stopped at 1:05 PM at 221st Street and Murdock Avenue. That male was observed walking southbound on 221st Street, and a bulge was observed in his left front pocket. When the officers' vehicle pulled to the side of the road, § 87(2)(b) crossed the street to avoid the vehicle. § 87(2)(b) reached into his waistband and avoided questioning. § 87(2)(b) stated he was coming from his friend's house, and pointed southbound toward Murdock Avenue, but § 87(2)(b) came from 112th Avenue. When Sgt. Holochuck frisked § 87(2)(b)

§ 87(2)(b) spun around very quickly, almost hitting Sgt. Holochuck in the face. The officers attempted to place § 87(2)(b) in handcuffs, at which point § 87(2)(b) resisted. PO Castillo arrested § 87(2)(b) at 1:13 PM. (Encl. 23A-23C)

CCRB Interview Statement

As PO Durante and his partners were driving westbound along 113th Avenue, PO Edmonds, who was the vehicle operator, observed a male with a bulge in his pocket on 221st Street near its intersection with 112th Road and commented on it to the rest of the team. PO Edmonds turned northbound on 221st Street and stopped the car in the middle of the street in order to better observe the individual. When PO Durante first saw the individual, later identified as § 87(2)(b), § 87(2)(b) was standing behind a car on the west side of 221st Street near the intersection with 112th Road. About half of § 87(2)(b)'s body was behind the car, and the other half was visible from the street. PO Durante saw § 87(2)(b) kneel behind the car so that "it looked like he was putting something behind the car." The officer could not see § 87(2)(b)'s hands at that point, so was unable to see if he was carrying anything. PO Edmonds stopped the car in the middle of the street and the officers watched § 87(2)(b). When § 87(2)(b) stood up he appeared to observe the officers, at which point he appeared to "freeze" briefly. § 87(2)(b) then started walking towards the officers in the middle of the street. PO Durante said that § 87(2)(b) was walking very slowly, and that there were two or three vehicles travelling along the street behind him. The vehicles were unable to pass § 87(2)(b) and the vehicle directly behind him honked at him, but § 87(2)(b) did not move out of the street. In his IAB statement, PO Durante stated that § 87(2)(b) backed up traffic for approximately fifteen seconds. The officer estimated that § 87(2)(b) was approximately thirty feet away from the officers at that point and getting closer, noting that he could see a bulge in § 87(2)(b)'s left pocket.

PO Edmonds drove towards § 87(2)(b) and pulled to the west side of the street. Sgt. Holochuck yelled at § 87(2)(b) to "Get out of the middle of the road, come over here." Sgt. Holochuck also pulled out his shield and said, "Police Department." In his IAB statement, PO Durante did not quote the sergeant as having instructed § 87(2)(b) to get out of the street. § 87(2)(b) stood for a moment before walking slowly to the RMP. In his IAB statement, PO Durante stated that § 87(2)(b) was "protecting" his left pocket with his hand and reaching for his waistband as he approached and during the entire time that the officer observed him.

When § 87(2)(b) approached the vehicle, Sgt. Holochuck asked him what his name was, where he lived, and where he was going. § 87(2)(b) did not say what his name was, but only responded that he was from "Hollis." He stated that he was coming from his friend's house, and when he was asked where his friend's house was, he pointed towards Murdock Avenue. PO Durante described § 87(2)(b) as appearing nervous and generally uncooperative. § 87(2)(b) also kept his hand near the top of his left pants pocket, the same pocket that contained a bulge.

When asked if there was a shape to the bulge, PO Durante said that it just looked like "a real heavy pocket, like there was something heavy in there." There was nothing coming out of the top of the pocket, but PO Durante suspected that § 87(2)(b) might have a gun and thought that § 87(2)(b) was trying to obscure the bulge with his hand. PO Durante said that § 87(2)(b)'s nervousness, the appearance of the bulge, and the fact that § 87(2)(b) was lying to the officers about where he was coming from were the factors that made him think that § 87(2)(b) might be armed.

After § 87(2)(b) stated that he was coming from his friend's house, Sgt. Holochuck got out of the vehicle, as did PO Durante. In his IAB statement, PO Durante stated that though he believed that PO Edmonds and Castillo exited the vehicle at the same time, he could not be certain. Upon exiting the vehicle, Sgt. Holochuck immediately frisked § 87(2)(b)'s pocket and then tried to frisk his waistband. In his IAB statement, PO Durante stated that the sergeant began the frisk at § 87(2)(b)'s torso area and gradually moved down to the waist.

When Sgt. Holochuck tried to frisk his waistband, § 87(2)(b) made a fist with one of his hands and tried to throw a punch to the side of Sgt. Holochuck's head. Seeing this, PO Durante grabbed § 87(2)(b) to

prevent him from landing the blow. He then tackled § 87(2)(b) to the ground. PO Durante said that he did not “clothesline” § 87(2)(b) during the struggle.

In his IAB statement he specified that he drove his shoulder into § 87(2)(b)'s right ribcage and that he fell on top of § 87(2)(b) who landed back-first on the ground. The officer stayed on top of § 87(2)(b) and wrestled him so that he was face down. § 87(2)(b) did not sit up at any point, nor did PO Castillo kick § 87(2)(b) in the chest. PO Durante remained on § 87(2)(b)'s back and § 87(2)(b) put his arms under his body, causing PO Durante to think that § 87(2)(b) was trying to “go for something” in his waistband.

The other officers, all of whom had gotten out of the car by that point, tried to pull § 87(2)(b)'s arms out from under his body. § 87(2)(b) resisted them by pulling his arms back towards his body. Once the officers pulled his arms out, PO Durante held § 87(2)(b)'s legs so that he did not kick or try to get away. None of the officers punched or kicked § 87(2)(b) at any point. The officers got one handcuff on § 87(2)(b) but he tried to pull his arm away from them and resisted their attempts to place the other cuff on his wrist. Throughout the struggle § 87(2)(b) was yelling, “Get these fake-ass cops off me!” After he was eventually handcuffed, § 87(2)(b) was searched. A cell phone was recovered from his pocket.

PO Durante did not remember who performed the search or what the cell phone looked like. § 87(2)(b) continued to scream during the search and ten to twelve people gathered nearby and watched. In his IAB statement PO Durante estimated the number of bystanders to be between five and ten. PO Durante denied pulling § 87(2)(b)'s underwear to the side and looking inside them, or that he or any other officer ripped § 87(2)(b)'s underwear. He did not see any injuries on § 87(2)(b) or hear § 87(2)(b) complain of any injuries, and he did not hear § 87(2)(b) complain that his handcuffs were too tight. PO Durante did not tighten § 87(2)(b)'s handcuffs or see any other officers do so. A marked patrol car was called to the scene and Sgt. Holochuck escorted § 87(2)(b) to the 105th Precinct in that vehicle. PO Durante did not interact with § 87(2)(b) in the precinct.

When § 87(2)(b) was being taken to the hospital, PO Durante saw § 87(2)(b)'s mother in the stationhouse and overheard her telling someone on her cell phone that her son had been abused by the police department and that the family could make some money from the police department. He did not observe her have any interactions with any officers.

PO Edmonds

Memobook Entries

PO Edmonds's memobook entries state only that one male was stopped at 221st Street and Mudock Avenue at 1:05 PM, and that that male was placed under arrest at 1:13 PM at the same location. (Encl. 20A-20B)

CCRB Interview Statement

At approximately 1:05 PM, PO Edmonds was driving slowly, at “patrol speed,” through the Cambria Heights neighborhood of Queens, heading northbound on 221st street. Though PO Edmonds noted that that area was largely residential and that there were no people on the streets at the time of the incident, he also noted it to be a “high-traffic” and “high-crime” area. When asked specifically if there were any crime conditions in the neighborhood at the time of the incident, PO Edmonds said that there had recently been an increase in robberies.

As PO Edmonds neared the southern end of the block near 221st Street's intersection with 113th Drive or with Murdock Avenue, he observed a black male with braids and glasses, later identified as § 87(2)(b) standing toward the northern end of the block, on the sidewalk on the west side of the street. Upon observing § 87(2)(b) PO Edmonds noticed that § 87(2)(b) was looking into the rear window of a vehicle. In his statement to Internal Affairs, PO Edmonds also stated that § 87(2)(b) was looking into several cars, and that he was looking into the backyards of townhouses lining the street.

Upon noting this, PO Edmonds pulled the officers' car to the left side of the street and parked it behind several other vehicles. Though PO Edmonds estimated that he was approximately fifty yards from § 87(2)(b)

§ 87(2)(b) the officer noted that was able to observe § 87(2)(b) because, from his place in the driver's seat, he could see past the left side of the parked cars and observe § 87(2)(b) on the sidewalk.

During the approximately one minute that PO Edmonds observed him, the officer noted it to be a few seconds in his statement to Internal Affairs, § 87(2)(b) continued to look into the car without touching it. § 87(2)(b) then looked around as though he was looking to see if anyone was watching, and turned so that his back was to the street and he was facing over a fence into the back lawns of a row of houses. PO Edmonds said that he believed § 87(2)(b)'s actions to be suspicious and that they led him to believe that § 87(2)(b) might have been preparing to break into the vehicle. Though he made no mention of it during his CCRB interview, in his statement to Internal Affairs, PO Edmonds stated that he mentioned his observations to his partners, suggested that they "take a look at" at § 87(2)(b) because he was looking into the vehicle and into the rear yards of houses.

After moving around the vehicle, § 87(2)(b) looked up in the direction of the officers, taking notice of them. PO Edmonds said that he observed § 87(2)(b) roll his eyes, and that this led him to believe that § 87(2)(b) had seen the officers. § 87(2)(b) then walked behind the car he had been looking into, and onto the street. In his statement to Internal Affairs, PO Edmonds noted that, after noticing the officers, § 87(2)(b) looked into the rear of the vehicle as he walked behind it. After walking around the rear of the vehicle, § 87(2)(b) began walking into the street towards the officers with a stiff, awkward gait. PO Edmonds noted that § 87(2)(b)'s gait appeared awkward because he was keeping his right arm very stiff and close to his body. In his statement to Internal Affairs, PO Edmonds stated that § 87(2)(b)'s right arm was moving normally, and that it was his left arm that was kept stiff against his body. He also specified that § 87(2)(b) kept his left arm against his pocket, versus simply his body.

When § 87(2)(b) was approximately forty yards away PO Edmonds was able to discern a bulge in § 87(2)(b)'s right pocket. To Internal Affairs, the officer noted it to be the left pocket. Upon noting this, PO Edmonds and the other officers pointed this out to Sgt. Holochuck. To Internal Affairs, he noted that he informed Sgt. Holochuck and his partners simultaneously. § 87(2)(b) was keeping his right arm over the bulge, but PO Edmonds was able to make it out nonetheless. PO Edmonds noted that the bulge did not have any discernable shape, and that there was nothing showing from the top of the pocket. The bulge and § 87(2)(b)'s gait led PO Edmonds to believe that § 87(2)(b) might be armed.

The officer said that he had assisted in "dozens" of gun arrests and that the bulge and gait were consistent with people who were in possession of firearms. PO Edmonds stated that 221st Street does not have heavy traffic, but while § 87(2)(b) was walking in the street there were two or three vehicles that had to stop behind him and then swerve around him to get by. In his Internal Affairs statement, PO Edmonds noted that 221st Street and Murdock Avenue was a busy intersection and that one of the two or three cars trying to get by § 87(2)(b) honked it's horn at § 87(2)(b) because he was walking in the middle of the street blocking the intersection. In that statement PO Edmonds also said § 87(2)(b) was blocking the intersection for "a few seconds," but then immediately amended his statement to suggest that he was blocking it for about "a minute or so." When asked whether § 87(2)(b) was just standing in the street, PO Edmonds stated that § 87(2)(b) was standing briefly but then began slowly walking toward the officers' vehicle with traffic behind him.

When § 87(2)(b) was approximately two car-lengths from the officers' car, he began to walk towards the east side of the street, the opposite side of the street from where the officers were parked. When § 87(2)(b) was parallel with the officers' car, Sgt. Holochuck rolled down the window, showed his shield, and asked § 87(2)(b) to come over to the car. § 87(2)(b) approached the car warily, and continued to keep his right arm (left arm to Internal Affairs) straight over the bulge. PO Edmonds said that while § 87(2)(b) cooperated in coming to the car, he did so slowly, as though he was trying to think about what he should do.

Sgt. Holochuck asked § 87(2)(b) what his name was, and § 87(2)(b) only answered § 87(2)(b). Sgt. Holochuck asked where § 87(2)(b) lived, and § 87(2)(b) replied, "§ 87(2)(b)." When Sgt. Holochuck asked where § 87(2)(b) was going, § 87(2)(b) pointed north on 221st Street in the direction he had come from. PO Edmonds repeatedly characterized these replies as "evasive." When asked if Sgt.

Holochuck followed up with any more specific questions regarding § 87(2)(b)'s name, address, and destination, PO Edmonds said, "He must have," but did not remember specifically. He said that any further replies given by § 87(2)(b) were evasive, although he could not remember specifically.

As § 87(2)(b) was standing near Sgt. Holochuck's window he did not stand still, instead rocking back and forth and continually moving his hands. He stated that Sgt. Holochuck had to tell § 87(2)(b) to keep his hands by his sides multiple times. PO Edmonds said that the bulge in § 87(2)(b)'s pocket was still visible, but the officer was unable to make out the shape of the item inside the pocket. Sgt. Holochuck told § 87(2)(b) to back away from the car, and § 87(2)(b) did. Sgt. Holochuck then got out of the vehicle, as did PO Durante and PO Castillo. When asked if Sgt. Holochuck and § 87(2)(b) were face to face at this point, PO Edmonds said that he was unsure of how they were positioned in relation to each other. In his Internal Affairs statement, the officer stated that § 87(2)(b) "probably" turned his back to the vehicle as Sgt. Holochuck exited and that § 87(2)(b)'s arms were out to the side but not "like they should be," indicating to him that § 87(2)(b) did not intend to comply with the sergeant's instructions.

Sgt. Holochuck walked towards § 87(2)(b) and reached to try and put his hand on the bulge in § 87(2)(b)'s pocket. In his Internal Affairs statement, PO Edmonds quoted the sergeant as first stating, "Let me just check you for one sec." As Sgt. Holochuck was reaching towards § 87(2)(b), § 87(2)(b) "spun" from the sergeant so that his hands were at about face level and it looked as though § 87(2)(b) was trying to strike him. In his Internal Affairs statement, PO Edmonds stated that § 87(2)(b) made a fist and raised his arm as if to swing it. PO Durante immediately put § 87(2)(b) in a bear-hug and forced him to the ground. PO Edmonds said that PO Durante did not "clothesline" § 87(2)(b) by striking him across the front of the neck with his extended arm. PO Edmonds did not exit the car for several seconds, but when he got out and came to the other side he saw § 87(2)(b) face-down on the ground with his arms gathered under his body. PO Edmonds immediately got down and "dug in," reaching under § 87(2)(b) with his left hand and grabbing § 87(2)(b)'s left wrist. PO Edmonds said that, in doing this, he scraped his own wrist on the gravel on the street, but did not seek medical attention after the incident.

§ 87(2)(b) was resisting by kicking his legs back, striking PO Edmonds in his other arm. He also fought to keep his left arm underneath him. PO Edmonds forced § 87(2)(b)'s arm behind his back and put one handcuff on § 87(2)(b)'s wrist. As he did this, § 87(2)(b) "really went crazy" and began waving his handcuffed arm in an attempt to pull the other bracelet away from PO Edmonds. Another officer pulled § 87(2)(b)'s other arm behind his back and PO Edmonds was able to cuff the other arm. Neither PO Edmonds nor any of the other officers punched or kicked § 87(2)(b) at any point, and at no time did he see PO Castillo kick § 87(2)(b) in the chest. PO Edmonds was unable to say what the other officers were doing as he was forcing § 87(2)(b)'s arm behind his back. After he was handcuffed § 87(2)(b) was immediately frisked and no weapons were found.

When § 87(2)(b) was brought to his feet he was moved near the front of the car. He continued to move his body from side to side, and was also reaching into the rear of his boxers with the fingers of his handcuffed hands. One of the officers searched § 87(2)(b) but did not find any weapons or contraband. Neither PO Edmonds nor any other officer at the scene pulled § 87(2)(b)'s boxers to the side and looked down inside his underwear while at the scene. PO Edmonds later learned that the bulge in § 87(2)(b)'s pants had been caused by his cell-phone. The officer did not see any injuries on § 87(2)(b) at any point, nor did § 87(2)(b) complain of any. PO Edmonds noted that from the time he had been taken to the ground until he was stood against the car, § 87(2)(b) continued to scream, "Police brutality!" very loudly. One of the officers called for a car with a cage, and when a marked patrol car arrived, Sgt. Holochuck rode with § 87(2)(b) to the 105th Precinct stationhouse.

At the precinct Sgt. Holochuck decided to strip-search § 87(2)(b). PO Edmonds said that this was because of the way that § 87(2)(b) had been reaching into his boxers after being handcuffed, an action that made PO Edmonds suspicious that § 87(2)(b) had been trying to hide something. PO Castillo and Sgt. Holochuck joined PO Edmonds in strip-searching § 87(2)(b). § 87(2)(b) was generally cooperative and the strip-search did not recover any contraband. At 2:00 PM PO Edmonds resumed patrol with PO Durante and Sgt. Holochuck. He had no further interactions with § 87(2)(b) and did not see § 87(2)(b)'s mother at the stationhouse on the date of the incident. PO Edmonds noted that while a UF-

250 should have been filled out for § 87(2)(b) he did not fill one out and did not know if any other officers had.

PO Castillo

Memobook Entries

PO Castillo's memobook entries state that one male, later identified as § 87(2)(b) was stopped at 1:05 PM at 221st Street and Murdock Avenue, and that § 87(2)(b) was placed under arrest at 1:13 PM. PO Castillo returned to the 105th Precinct stationhouse at 1:30 PM. § 87(2)(b) was strip-searched at 1:30 PM and the search concluded at 1:35 PM with negative results. PO Castillo traveled to § 87(2)(b) with § 87(2)(b) at 5:05 PM, and was relieved by PO Olson at 6:38 PM. (Encl. 13A-13C)

OLBS and Criminal Court Complaint

In the Online Booking Sheet regarding § 87(2)(b)'s arrest, PO Castillo stated that § 87(2)(b) was walking in the middle of the street preventing the flow of northbound and southbound traffic. He also stated that when PO Castillo attempted to handcuff § 87(2)(b) § 87(2)(b) flailed both arms in an aggressive manner toward him. He also noted that physical force was used to prevent § 87(2)(b)'s escape. (Encl. 14A-14D)

In the criminal court complaint for § 87(2)(b)'s arrest, PO Castillo provided the same information as in the OLBS narrative, but made no mention of § 87(2)(b) having flailed his arms. He also noted that § 87(2)(b)'s conduct caused a public inconvenience by causing a crowd to gather in response to it. (Encl. 14A-14D)

CCRB Interview Statement

On June 8, 2006, PO Castillo was assigned to anti-crime patrol within the confines of the 105th Precinct, an assignment that he worked regularly from March of 2006 to October of 2006. He was working with Sgt. Holochuck, the team's supervisor, as well as PO Edmonds and PO Durante. The officers were in an unmarked black Impala and were patrolling along Murdock Avenue. PO Edmonds was operating the vehicle, and Sgt. Holochuck was in the front passenger's seat. PO Durante was sitting behind Sgt. Holochuck and PO Castillo was sitting behind PO Edmonds.

As the officers traveled west-bound on Murdock Avenue, PO Edmonds turned northbound onto 221st Street, which is a two-way street. PO Edmonds told the other officers that he had seen an individual toward the northern end of the block looking into a parked car and at a nearby home. In his statement to Internal Affairs, PO Castillo did not note PO Edmonds to have mentioned § 87(2)(b) looking into residences. PO Edmonds pulled the car to the west side of the street. PO Castillo did not see the individual, later identified as § 87(2)(b) looking into a car or any nearby properties. The first time PO Castillo observed § 87(2)(b) was when, after PO Edmonds had pulled to the side of 221st Street, § 87(2)(b) walked into 221st Street from near the car that he had allegedly been looking into and began walking southbound toward the officers.

PO Castillo said that § 87(2)(b) was approximately five or six car-lengths away from the officers, and there were no cars in between the officers' vehicle and the car that § 87(2)(b) had been standing near. § 87(2)(b) who had been on the west side of the street, stepped into the street and began walking southbound toward the officers in the middle of the street. Several cars were travelling southbound on 221st Street and honked at § 87(2)(b) to get out of the street. § 87(2)(b) did not get out of the street, and the cars had to pull around him. In his IAB statement, the officer noted § 87(2)(b) to have blocked the street for approximately one minute.

When § 87(2)(b) was approximately three to five car-lengths away from the officers' car, § 87(2)(b) appeared to recognize by their vehicle that PO Castillo and his partners were plainclothes officers. When asked what made him believe that § 87(2)(b) recognized the officers, he said that § 87(2)(b) changed directions, walking from the middle of the street to the east side, opposite from the officers. § 87(2)(b) continued to walk southbound. Before § 87(2)(b) walked past the officers' car, Sgt. Holochuck rolled

down his window, showed his shield, identified himself as a police officer and asked § 87(2)(b) to come to the car. Sgt. Holochuck did not discuss his decision to engage § 87(2)(b) prior to actually doing so.

§ 87(2)(b) was cooperative and came over to the car. Sgt. Holochuck asked § 87(2)(b) for his name, but instead of giving his whole name, § 87(2)(b) just said, § 87(2)(b). When Sgt. Holochuck asked where he lived, § 87(2)(b) did not provide an address, replying, “Cambria Heights,” instead. Sgt. Holochuck then asked § 87(2)(b) where he was coming from. § 87(2)(b) said that he was coming from a girlfriend’s house. When asked where he was going, § 87(2)(b) indicated that his destination was north, despite the fact that he had been walking south. PO Castillo said that § 87(2)(b)’s answers were evasive and served to make the officers suspicious of him. § 87(2)(b) was also restless as he spoke to Sgt. Holochuck, shifting his feet and repeatedly putting his hands into his pockets. Sgt. Holochuck told § 87(2)(b) twice to keep his hands out of his pockets.

As § 87(2)(b) had been walking in the middle of the street, PO Edmonds had observed a bulge in § 87(2)(b)’s front left pants pocket. PO Castillo did not see the bulge until § 87(2)(b) was speaking to Sgt. Holochuck. The bulge did not have any particular shape and he was not able to see anything protruding from § 87(2)(b)’s pocket. The bulge, along with § 87(2)(b)’s evasive manner made PO Castillo think that § 87(2)(b) could possibly have been in possession of a firearm. When asked if there were any other indications, other than the bulge, that § 87(2)(b) was armed, PO Castillo said that there were not. Sgt. Holochuck exited the car. PO Castillo initially stated that as the sergeant reached to try and frisk the area of the bulge, § 87(2)(b) took two steps back and raised his arm with a clenched fist as though he was going to punch Sgt. Holochuck. When asked if Sgt. Holochuck was face to face with § 87(2)(b) when he tried to frisk him, PO Castillo said that he was getting out of the other side of the car at the time and had not actually seen Sgt. Holochuck try to frisk § 87(2)(b). As § 87(2)(b) appeared ready to punch Sgt. Holochuck, PO Durante grabbed his arm. PO Castillo was unable to be more specific, other than to say that PO Durante grabbed § 87(2)(b)’s arm and somehow forced him to the ground. In his Internal Affairs statement, PO Castillo stated that because he was coming around the vehicle he did not actually see how PO Durante got § 87(2)(b) to the ground or what part of § 87(2)(b)’s body made contact with it. He noted, however, that PO Durante did not “clothesline” § 87(2)(b) with an arm across the front of his neck.

When PO Castillo got to the other side of the car he saw that § 87(2)(b) was face-down on the ground with his arms tucked underneath his body, screaming, “Stop” as the officers attempted to pull his arms out from under him. PO Castillo knelt by § 87(2)(b)’s head and shoulders and worked with the other officers to try and pull § 87(2)(b)’s arms out from under his body and handcuff him. He noted that the only force used against § 87(2)(b) was to pull his arms and denied that he or any other officers kicked or punched § 87(2)(b) at any point.

Eventually the officers were able to pull § 87(2)(b)’s left arm out from behind him and place a handcuff on his wrist, but he continued to fight to keep them from gaining control of his right arm. PO Castillo noted that, even though his left arm was handcuffed, § 87(2)(b) flailed it behind his back. Once the officers handcuffed § 87(2)(b)’s right arm, he was brought to his feet. PO Castillo searched § 87(2)(b) and found that it was a cell phone that had created the appearance of a bulge in his pocket. PO Castillo was unable to describe the phone.

As § 87(2)(b) stood near the vehicle, he was reaching his handcuffed hands into the rear of his pants. PO Castillo thought that § 87(2)(b) might be trying to transfer a weapon or drugs from his hands into the rear of his pants and pulled § 87(2)(b)’s hands up and told him to stop fidgeting. He said neither he nor any of the other officers adjusted § 87(2)(b)’s handcuffs in any way. Also, neither PO Castillo nor any of the other officers pulled § 87(2)(b)’s underwear to the side and looked down them. PO Castillo also said that none of the officers adjusted § 87(2)(b)’s handcuffs in any way. Sgt. Holochuck called for a marked unit to come to the scene, and when an RMP arrived, Sgt. Holochuck escorted § 87(2)(b) to the stationhouse.

At the stationhouse Sgt. Holochuck decided to strip-search § 87(2)(b) basing that decision on § 87(2)(b)’s attempts to reach down into his pants after he had been handcuffed. PO Castillo, PO Edmonds

and Sgt. Holochuck took part in the strip-search, the only one that was conducted, which yielded negative results. § 87(2)(b) was then placed in a holding cell. PO Castillo said that § 87(2)(b) was only kept in one holding cell during his stay at the 105th Precinct. PO Castillo, who as the arresting officer fingerprinted § 87(2)(b) noted that § 87(2)(b) did not ask for medical attention at any point. § 87(2)(b) did not complain of injuries, nor did PO Castillo observe any on him.

PO Castillo went back on patrol after completing § 87(2)(b)'s paperwork. He was later called back to the stationhouse to transport § 87(2)(b) to the hospital. He said that he did not see § 87(2)(b)'s mother at the stationhouse and did not interact with her until they were at § 87(2)(b).

Sgt. John Gavan, PO Marique Monzert, and PO Brett Allen

Sgt. John Gavan, PO Marique Monzert, and PO Brett Allen all of the 105th Precinct, were interviewed on May 17, 2007 and July 7, 2007, and June 19, 2007, respectively. (Encls. 27A-27B, 31A-31B, and 29A-29B) Sgt. Gavan was also interviewed by Lt. Thomas Panetta and Sgt. Clive Caplan of Internal Affairs on January 18, 2007. (Encl. 28A-28C) Sgt. Gavan, a § 87(2)(b)-old, 5'10" tall white male, has brown hair and weighs 165 pounds. PO Monzert is a 5'9" tall white female who is § 87(2)(b) old, weighs 140 pounds, and has brown hair. PO Allen, a 210-pound white male, is § 87(2)(b) old, 6'0" tall, and has brown hair.

On June 8, 2006, Sgt. Gavan worked in uniform from 2:50 PM to 11:47 PM as the 105th Precinct Desk Sergeant. POs Monzert and Allen, who were together working a uniformed conditions assignment, worked 9:30 AM to 6:05 PM tours and were assigned to marked patrol car number 1776. At the conclusion of their interviews, POs Monzert and Allen provided their memobook entries regarding this incident. Sgt. Gavan, however, did not have any relevant memobook entries. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Sgt. Gavan

On June 8, 2006, Sgt. John Gavan was the assigned desk officer at the 105th Precinct stationhouse from 2:50 PM until 11:47 PM. Upon arrival at his post, the sergeant conducted a check of the cells and the prisoner roster, ensuring that the prisoners were accounted for. Though he saw § 87(2)(b) as he performed this inspection, he did not note § 87(2)(b) to have any injuries. § 87(2)(b) did not ask Sgt. Gavan for medical attention. Several hours after beginning his tour, a female entered the stationhouse and identified herself to Sgt. Gavan as § 87(2)(b). Sgt. Gavan said that the woman, later identified as § 87(2)(b) was § 87(2)(b) wearing a jacket. She stated that she wanted to see her son, who was being held at the stationhouse, before he was taken to Central Booking. § 87(2)(b) also told Sgt. Gavan that she worked in § 87(2)(b) in conjunction with members of the NYPD. Sgt. Gavan honored her request to see her son, but first made sure that she left her firearm at the desk. He did not require her leave her cell-phone at the desk. Sgt. Gavan escorted § 87(2)(b) back to the cell area, where she spoke to her son for approximately one minute.

Sgt. Gavan did not hear their conversation, but said that when she finished speaking to her son, she told the sergeant that her son needed medical treatment. Sgt. Gavan said, "Okay," and walked back to the front desk with § 87(2)(b) and called for EMS. He did not remember whether he used his radio or the precinct telephone to place the call. Sgt. Gavan did not remember seeing § 87(2)(b) on her cell phone while inside the stationhouse. He was unaware of whether she called IAB. He stated that he did not interact with her after calling for an ambulance. He did not remember any other civilians being present at the stationhouse to see § 87(2)(b).

Sgt. Gavan confirmed that he did not book § 87(2)(b) and stated that he was not consulted regarding the strip-search of § 87(2)(b) which happened before his tour began. Sgt. Gavan stated § 87(2)(b) asked him one time to obtain medical treatment for her son, and he complied immediately. He said that § 87(2)(b) did not accuse him of denying medical attention to her son, and when he was asked if at any point he said he would do § 87(2)(b) a "solid favor" by expediting § 87(2)(b)'s trip to Central Booking instead of obtaining medical treatment, Sgt. Gavan replied, "Absolutely not."

PO Monzert

Memobook Entries

PO Monzert's memobook entries related to this incident note that at 1:10 PM on the incident date there was a call for assistance at 221 Murdock Avenue in Brooklyn and that at 1:15 PM, one male was transported to the 105th Precinct. PO Monzert resumed patrol at 1:30 PM. (Encl. 30A-30C)

CCRB Interview Statement

On June 8, 2006 at approximately 1:15 PM, PO Monzert received a radio transmission calling for police assistance at the incident location. When POs Monzert and Allen responded, PO Monzert saw that a civilian, later identified as § 87(2)(b) was already handcuffed. PO Monzert could not recall whether there were any other police units present and noted that, though she remembered there being a crowd of civilians, she could not recall any specific individuals. Though she noted that there were not a substantial number of people in the civilian crowd, she could not remember specifically how many civilians were present.

Shortly after PO Monzert and her partner arrived at the scene, § 87(2)(b) was placed in their vehicle. PO Monzert noted that § 87(2)(b) was placed directly into the vehicle, and that she did not witness any interaction between § 87(2)(b) and officers, including frisks or searches, that might have occurred prior. PO Monzert and her partner then transported § 87(2)(b) and Sgt. Holochuck to the 105th Precinct. When asked to describe § 87(2)(b)'s demeanor during the transportation process, PO Monzert stated that § 87(2)(b) was "just sitting in the car," and that she did not recall him saying anything. PO Monzert did not note § 87(2)(b) to be "fidgety" or to be moving around as he sat in the back of the patrol vehicle. At no point did PO Monzert hear Sgt. Holochuck threaten to taser § 87(2)(b) nor did she hear § 87(2)(b) request the sergeant's name or shield number. PO Monzert noted that she in fact did not hear any interaction between Sgt. Holochuck and § 87(2)(b) at any point during this incident.

After dropping § 87(2)(b) and Sgt. Holochuck off at the back entrance to the 105th Precinct, PO Monzert resumed patrol. The officer noted that to the best of her recollection neither she nor PO Allen ever entered the precinct with Sgt. Holochuck or § 87(2)(b).

PO Allen

Memobook Entries

PO Allen's memobook entries note that he received a call for police assistance at 1:10 PM on the incident date and that one male was transported to the 105th Precinct at 1:15 PM. (Encl. 28A-28B)

CCRB Interview Statement

PO Allen's interview statement was largely consistent with PO Monzert's account. However, where PO Monzert noted there to have been a crowd of civilians at the incident location when she arrived, PO Allen did not recall any other civilians besides § 87(2)(b) being present.

Field Work

On September 25, 2006 at 3:00 PM, the investigator traveled to the incident location and took several photographs of area surrounding 221st Street and Murdock Avenue. The area was very quiet, heavily residential, and did not have much traffic. (Encl. 2A-2B)

Medical Records

§ 87(2)(b)

On § 87(2)(b), an ambulance brought § 87(2)(b) who was accompanied by officers, to § 87(2)(b) Center. When § 87(2)(b) was initially treated, he complained of pain all over his chest, pain to his left lower arm, and pain to his elbow. He also noted that the onset of the pain was two days prior. Swelling was noted to his left lower arm and bruises were noted to both arms. § 87(2)(b) was diagnosed with musculoskeletal pain, forearm abrasions, and chest bruises. The radiology report notes that x-rays showed a "Probable fracture of the right radial head," and that an examination of the left forearm and

chest showed them to be essentially normal. A study of the elbow was advised. § 87(2)(b) was given Motrin, which is a pain relieving medication. (Encl. 32A-32Y)

Pre-Arrest Screening Form

The pre-arrest screening form filed for § 87(2)(b) notes that § 87(2)(b) had injuries to his chest and both arms. The attending EMT's visual assessment noted that § 87(2)(b)'s left wrist was swollen, that he was unable to move it, and that he complained of pain. (Encl. 32A-32Y)

§ 87(2)(b)

§ 87(2)(b) sought treatment at § 87(2)(b) on § 87(2)(b). The records from that visit indicate that § 87(2)(b) complained of pain to his wrist, elbow, neck, and chest, that he sustained abrasions to his right elbow, and that he noted himself to have been assaulted. The records also note that the onset of the above-mentioned pain was two days prior. (Encl. 32A-32Y)

§ 87(2)(b)

§ 87(2)(b) sought treatment with § 87(2)(b) on § 87(2)(b). A handwritten examination sheet dated § 87(2)(b) notes that x-rays showed a fracture to the scaphoid waist of the left wrist and a non-displaced fracture to the right elbow. § 87(2)(b)'s left wrist as put in a cast and he was given a cast for his forearm and a sling for his right arm.

§ 87(2)(b) returned for an examination on § 87(2)(b), at which time it was noted that x-rays showed "good alignment of the scaphoid fracture." The findings regarding the elbow were not noticeably different from the initial visit. The elbow displayed a full range of motion. On § 87(2)(b) Dr. Lenzo removed § 87(2)(b)'s cast and found no tenderness in the scaphoid. There was no tenderness in the elbow and § 87(2)(b) had a nearly full range of motion. There was no tenderness in the radial head of the right elbow. X-rays showed "good consolidation and healing of the respective fractures." Dr. Lenzo then referred § 87(2)(b) for physical therapy. (Encl. 32A-32Y)

Police Documents

IAB Callout Photos

Investigating officers from Internal Affairs took five polaroid photographs of § 87(2)(b) following their callout interview conducted at § 87(2)(b). One of the photographs, which the investigator labeled Photograph #1, shows two abrasions to the back of § 87(2)(b)'s left wrist appearing to be approximately one inch and one half inch long, respectively. It also shows a mark across the back of § 87(2)(b)'s right wrist in the shape of a thin parallel line. Photographs # 2, 3, and 5 show § 87(2)(b)'s face and chest with no apparent signs of injury. Photograph #4 shows two to three small abrasions on § 87(2)(b)'s right elbow, as well as what appears to be minor bruising. (Encl. 7A-7D)

Internal Affairs Investigation Report Findings

Sgt. Clive Caplan and Lt. Thomas Panetta of Internal Affairs conducted an investigation regarding this incident which concluded on June 21, 2007. Their investigation unsubstantiated the strip-search allegation against Sgt. Holochuck, the physical force allegations against Sgt. Holochuck and POs Edmonds, Durante, and Castillo, and a disputed arrest allegation made against PO Castillo. The investigation also unfounded a, "fail to take police action" allegation against Sgt. Gavan, which related to Sgt. Gavan's alleged refusal to provide § 87(2)(b) with medical attention. (Encl. 40A-40U)

Special Police Radio Inquiry Network Terminal (SPRINT) Report and Index

The SPRINT report generated regarding this incident states that the 105th Precinct anti-crime team made a crime arrest, identified through investigation as that of § 87(2)(b) at 1:13 PM on the incident date. It also notes that officers assigned to the Conditions Strike Team, identified through investigation as POs Monzert and Allen, arrived at the location at 1:11 PM and transported § 87(2)(b) from the scene at 1:29 PM. (Encl.) Another SPRINT report notes that a call was placed from a 105th Precinct phone at 4:57 PM requesting EMS to respond for an injured prisoner. EMS arrived at the 105th Precinct Stationhouse at 5:04 PM and transported that prisoner to § 87(2)(b). (Encl. 33A-33F)

The SPRINT index for the 105th Precinct on June 8, 2006 notes that no other calls related to an injured prisoner or requesting EMS to respond were placed on the incident date. (Encl. 33A-33F)

105th Precinct Command Log

The 105th Precinct command log for June 8, 2006 notes that PO Castillo logged in § 87(2)(b)'s arrest at 1:30 PM, and that § 87(2)(b)'s physical and mental condition was normal. It also notes that a strip search was conducted at 1:30 PM with negative results, that EMS transported § 87(2)(b) to § 87(2)(b) at 5:10 PM, and that § 87(2)(b) complained of pain to his arm. (Encl. 34A-34B)

105th Precinct Prisoner Holding Pen Roster

The 105th Precinct Prisoner Holding Pen Roster for June 8, 2006 notes that § 87(2)(b) and § 87(2)(b) the entries immediately following § 87(2)(b)'s, were lodged in the cells at 1:50 PM. Though there is no time listed for when § 87(2)(b) was placed in the cells, it notes identifies PO Castillo as the officer assigned to guard § 87(2)(b) and notes that he visited § 87(2)(b)'s cell every thirty minutes from 1:30 PM to 4:30 PM. The log notes that § 87(2)(b) was transported to § 87(2)(b) at 5:10 PM (Encl. 35A)

Arrest Photo and Medical Treatment of Prisoner Form

As his arrest had been sealed at the time of the investigation's request, § 87(2)(b)'s arrest photo and medical treatment of prisoner form could not be obtained.

Officer CCRB History

After being with the NYPD for thirteen years, Sgt. Holochuck has three substantiated allegations on his CCRB record. Two of those allegations, a "Question and/or Stopped" and a "Refusal to provide name and/or shield number" were part of CCRB case number 200006530. Sgt. Holochuck received a schedule B command discipline for each of those allegations. The third substantiated allegation, also a "Refusal to provide name and/or shield number," was part of CCRB case number 200602089. The sergeant received a schedule A command discipline for that allegation.

After being with the NYPD for five years, PO Castillo does not have any substantiated allegations on his CCRB record.

PO Durante has had one allegation, a "Refusal to provide name and/or shield number," substantiated against him in his eight-year tenure. For that allegation, which was part of CCRB case number 200602089, PO Durante received instructions.

PO Edmonds has had two allegations, a physical force and a retaliatory summons allegation, substantiated against him in his five-year tenure. For both those allegations, which were part of CCRB case number 200402328, PO Edmonds was found guilty at DCT. He lost five vacation days for the physical force allegation. The penalty disposition for the other allegation is currently unavailable. (Encl. 4A-4G)

Civilian CCRB History

Neither § 87(2)(b) nor § 87(2)(b) has filed any prior CCRB complaints. (Encl. 4A-4G)

Arrest Disposition and Criminal Conviction History

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civil Suits

On § 87(2)(b), § 87(2)(b) filed a notice of claim against the City of New York on § 87(2)(b)'s behalf. The claim notes that § 87(2)(b) was assaulted and battered by members of the NYPD and seeks damages of an amount to be determined at trial. (Encl. 38A-38B) On November 7, 2007, the undersigned investigator called Robert Nesmith of the City of New York Office of the Comptroller who stated that, to date, there have not been any 50H hearings held in connection with § 87(2)(b)'s claim.

On § 87(2)(b), § 87(2)(b) filed a federal lawsuit against the City of New York regarding her son's June 8, 2006 arrest. (Encl.) The details of complaint were largely consistent with § 87(2)(b)'s statements to the CCRB and IAB. As of November 8, 2007, no hearings had been conducted in connection with that suit.

Conclusions and Recommendations

Officer Identification

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Undisputed Facts

It is undisputed that Sgt. Holochuck called § 87(2)(b) over to his vehicle as he crossed Murdock Avenue, that Sgt. Holochuck questioned § 87(2)(b) and that § 87(2)(b) provided at least one inconsistent answer. It is also undisputed that some time shortly following this discussion, Sgt. Holochuck and his partners exited their vehicle, that § 87(2)(b) stepped backward in response, and that PO Durante used physical force to bring § 87(2)(b) to the ground. It is also undisputed that § 87(2)(b) was at some point face-down on the ground with his hands underneath him, and that POs Durante, Castillo, and Edmonds used physical force against § 87(2)(b) while placing him under arrest. That PO Castillo strip-searched § 87(2)(b) at least once and that Sgt. Holochuck supervised that strip-search is also undisputed.

Disputed Facts

§ 87(2)(g)
[REDACTED]

Assessment of Evidence

All of the officers noted that § 87(2)(b) walked onto Murdock Avenue and proceeded down the middle of the street, preventing vehicles from getting past him. PO Castillo and Sgt. Holochuck noted this obstruction to have lasted for approximately one minute. When PO Edmonds was questioned on that subject, he first stated that § 87(2)(b) blocked traffic for a few seconds then amended his statement to say that it was for approximately one minute. When asked the same question, PO Durante stated that § 87(2)(b) blocked traffic for approximately fifteen seconds. Sgt. Holochuck stated that § 87(2)(b) walked

to the middle of Murdock Avenue and simply stood there as cars attempted to get around him. All of his partners, however, suggested that § 87(2)(b) walked slowly down the middle of the street with at least one of the two or three cars behind him honking their horns and trying to get past. PO Edmonds stated in his Internal Affairs statement that 221st Street and Murdock Avenue was a busy intersection. § 87(2)(g) he noted that the intersection did not in fact get much traffic, a fact that was verified during a field visit conducted during the same approximate time of day. (Encl. 2A-2B)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) Sgt. Holochuck, PO Edmonds, and PO Durante all alleged § 87(2)(b) to have swung a closed fist at the sergeant. However, in his CCRB statement, PO Edmonds stated that § 87(2)(b) simply spun away from the sergeant with his hands at face level. He was also unable to describe where § 87(2)(b) and the sergeant were positioned in relation to each other or even whether they were face-to-face. PO Durante, unlike the rest of his partners who claimed the alleged assault to have occurred as the sergeant reached for § 87(2)(b)'s pocket, alleged the punch to have occurred as Sgt. Holochuck neared § 87(2)(b)'s waistband during a full frisk that was already in progress. PO Durante also explicitly stated in his memobook entry that § 87(2)(b) “spun” toward Sgt. Holochuck so as to almost strike him, making no mention of an intentional closed-fist assault. Finally, PO Castillo, stated that § 87(2)(b) stepped back and raised a clenched fist but did not allege that § 87(2)(b) attempted a punch.

By all accounts Sgt. Holochuck moved to make physical contact with § 87(2)(b) and § 87(2)(b) quickly pulled back. § 87(2)(g)

§ 87(2)(b) alleged that PO Durante grabbed his neck and threw him to the ground, and that PO Castillo kicked him in the chest. Among the three statements that he made regarding this incident, § 87(2)(b) was relatively consistent regarding the force that he alleged the officers to have used against him, particularly POs Durante and Castillo allegedly “clotheslining” him and kicking him in the chest, respectively. § 87(2)(g) § 87(2)(b)'s medical records note that he complained of pain to his neck and chest and sustained chest bruising, combined with the fact that he specifically identified PO Castillo from the photo array conducted as “the officer who kicked [him] in the chest” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged in his IAB statement that the officers assaulted him for between five and six minutes, that they had control of both of his arms behind his back for that entire period, and that they made no attempts to handcuff him until after hitting him for five to six minutes. He also asserted that he provided no resistance to the officers’ efforts to place him in custody. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Though only Sgt. Holochuck and PO Durante alleged § 87(2)(b) to have been attempting to reach into his waistband during the struggle on the ground, all of the officers noted that § 87(2)(b) was “fidgeting” and reaching into his waistband after he had been handcuffed and brought to his feet. Sgt. Holochuck also stated that § 87(2)(b) continued to fidget while being transported to the 105th Precinct Stationhouse. § 87(2)(b) noted that PO Durante untied the rag that he had been using as a belt, causing his pants to begin to fall down, and began to look down his underwear following their initial search. § 87(2)(g)

§ 87(2)(b) alleged that he was strip-searched twice, once with POs Castillo and Durante present and again after Sgt. Holochuck entered the holding cell. § 87(2)(g)

§ 87(2)(g)

With regard to the handcuffs allegation, PO Castillo admitted to purposefully lifting § 87(2)(b)'s handcuffed arms to prevent him from reaching his hands into his pants. § 87(2)(g)

§ 87(2)(g)

First, with the exception of PO Castillo, who took responsibility for having conducted it, none of the officers were able to recall who performed the search or what the search entailed. § 87(2)(g)

§ 87(2)(b) alleged in his CCRB statement that Sgt. Holochuck threatened to taser him, but did not make those allegations to IAB or the Queens District Attorney's office. Sgt. Holochuck stated that § 87(2)(b) was fidgeting in the backseat, that he did in fact instruct § 87(2)(b) to remain still, and that § 87(2)(b) did not complain of injuries. He could not, however, recall whether § 87(2)(b) requested his name. § 87(2)(g)

§ 87(2)(g)
[REDACTED]

In his CCRB statement § 87(2)(b) stated that he requested medical attention from PO Castillo, while the officer was fingerprinting him. In his statement to the Queens District Attorney's Office § 87(2)(b) stated that he requested medical attention from one of the officers involved in his arrest, but did not specify which one. § 87(2)(b) did not mention requesting medical attention in his statement to Internal Affairs, which detailed only the events occurring at the arrest location. § 87(2)(g)

[REDACTED]

§ 87(2)(b) stated that Sgt. Gavan refused to provide § 87(2)(b) with medical attention and that the sergeant instead suggested that he would expedite § 87(2)(b)'s arrest processing. She also noted in her statements to both the CCRB and IAB that she was then forced to personally call EMS because of Sgt. Gavan's refusal to do so and that her request for EMS was made simultaneously with her complaint to IAB. She also explicitly noted that she was given a SPRINT job number, which she was unable to provide. As noted above, the SPRINT index for the date of incident shows that the only call for EMS coming from the 105th Precinct stationhouse on the incident date was placed by an officer, § 87(2)(g) from a stationhouse phone. It also shows that the call was made at 4:57 PM, approximately thirty minutes before § 87(2)(b) called IAB. § 87(2)(g)

[REDACTED]

Allegations not pleaded

§ 87(2)(g)
[REDACTED]

Allegation A: Sgt. Mark Holochuck questioned § 87(2)(b)

Kamins states that during a request for information, an officer may ask questions regarding the identity and destination of an individual and his reason for being at a particular location. In order to conduct this level of questioning an officer must have an objective credible reason for that interference not necessarily indicative of criminality. (Encl. 3A-3H) § 87(2)(g)

[REDACTED]

Sgt. Holochuck stated that prior to questioning § 87(2)(b) he saw him looking into cars and houses as well blocking traffic Murdock Avenue. § 87(2)(g)

[REDACTED]

Allegation B: Sgt. Mark Holochuck stopped § 87(2)(b)

Kamins defines a forcible stop as detainment by virtue of a significant interruption of one's liberty of movement. This interruption can take many forms, including physically subduing an individual or subjecting him to certain physical contact, such as holding his arm or wrist. (Encl. 3A-3H) For a forcible stop to be justified, it must be predicated upon a reasonable suspicion that a person is committing or has committed a crime. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Sgt. Holochuck stated that he saw § 87(2)(b) looking into cars and houses prior to crossing Murdock Avenue. In defining innocuous behavior as it pertains to the right to forcibly stop civilians, Kamins uses the example of an individual walking stopping, looking, around and continuing to walk down the street with one side of his coat hanging lower than the other, a condition being caused by an "object of bulk" in his pocket. A stop based on that innocuous behavior was deemed to be improper, with the Court of Appeals commenting that, "It can hardly be regarded as unusual that the defendant was looking at houses, for there is little else to look at in a residential neighborhood." § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C: PO Joseph Durante used physical force against § 87(2)(b)

Allegation D: PO Omar Castillo used physical force against § 87(2)(b)

Allegation E: PO Michael Edmonds used physical force against § 87(2)(b)

Allegation F: PO Joseph Durante damaged § 87(2)(b)'s property.

Allegation G: PO Omar Castillo tightly handcuffed § 87(2)(b)

Allegation H: Sgt. Mark Holochuck threatened § 87(2)(b) with the use of force.

Allegation I: Sgt. Mark Holochuck refused to provide his name to § 87(2)(b)

Allegation J: Sgt. Mark Holochuck supervised the strip-search of § 87(2)(b)

Allegation K: PO Omar Castillo did not obtain medical treatment for § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Kamins states that courts have condoned strip-searches that are conducted incident to arrests for misdemeanors when there are additional factors that create a reasonable suspicion that the arrestee is concealing a weapon or contraband. Such factors include excessive nervousness and unusual conduct. (Encl. 3A-3H) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

In discussing strip-searches, Patrol Guide Procedure 208-05 states, "A subsequent search will not be conducted unless there is reasonable belief that the subject has acquired a weapon or contraband." (Encl.

3A-3H) § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Allegation L: Sgt. John Gavan did not obtain medical treatment for § 87(2)(b) [Redacted]
§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: